



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

MAY 27 2016

REPLY TO THE ATTENTION OF:

SE-5J

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Mr. Richard Swift  
R & C Swift Dismantling  
501 South Main Street, Unit C  
Middlebury, Indiana 46540

Re: TOCON Property Asbestos Site  
1302 East Monroe Street, Goshen, Indiana 46528  
Site Spill Identification Number: C5AM  
General Notice of Potential Liability and Request for Information

Dear Mr. Swift:

The U.S. Environmental Protection Agency has documented the release or threat of release of hazardous substances, pollutants and contaminants into the environment from the TOCON Property Asbestos Site ("Site"), and has spent public funds to stabilize the release of contaminants from the Site. The EPA is planning to spend additional public funds to further investigate these releases and perform a Time-Critical Removal Action at the Site. This action will be taken by the EPA pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. §§ 9601-9675 unless the EPA determines that such action will be done properly by a responsible party or parties. Responsible parties under CERCLA include the current and former owners and operators of the Site, and persons who generated the hazardous substances or were involved in the transport, treatment, or disposal of the hazardous substances at the Site. Under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), where the EPA uses public funds towards the cleanup of the hazardous substances, responsible parties are liable for all costs associated with the removal or remedial action and all other necessary costs incurred in cleaning up the Site, including investigation, planning and enforcement costs.

The EPA has conducted the following actions at the Site:

1. Covered piles of Asbestos containing debris to limit public exposure to asbestos.
2. Erected a temporary fence to limit public access to the piles of asbestos containing debris.

The EPA is currently planning to conduct the following actions at the Site:

1. Further investigate extent of contamination on site.
2. Characterize and properly transport and dispose of all hazardous substances, pollutants or contaminants on site.

The EPA has received information that you may have operated the Site (via demolition related activities) or generated or transported hazardous substances that were disposed of at the Site, either personally or under R&C Swift Dismantling. By this letter, the EPA notifies you of your potential liability with regard to this matter and encourages you, as a potentially responsible party, to agree to reimburse the EPA for costs incurred to date and to voluntarily perform or finance the response activities that the EPA has determined or will determine are required at the Site. The EPA is willing to discuss with you the entry of an appropriate administrative consent order under which you would perform or finance response activities and reimburse the EPA for its costs. If a consent order cannot be promptly concluded, the EPA may issue a unilateral order under Section 106 of CERCLA, requiring you to perform specified work. Under Sections 106 and 107 of CERCLA, you may be liable for reimbursement of the EPA's costs, for statutory penalties and for treble damages for noncompliance with such an order. If you are a qualified small business, enclosed is a *U.S. EPA Small Business Resources Information Sheet*, which may be helpful if you are subject to an EPA enforcement action.

Because of the conditions described above, the EPA believes that response activities at the Site must be initiated as quickly as possible. Therefore, the EPA does not intend to utilize the special notice procedures available under Section 122(e) of CERCLA.

As a potentially responsible party, you should notify the EPA in writing within ten (10) calendar days of receipt of this letter of your willingness to perform or finance the activities described above and to reimburse the EPA for its costs. If the EPA does not receive a timely response, the EPA will assume that you do not wish to negotiate a resolution of potential responsibility in connection with the Site and that you have declined any involvement in performing the response activities.

Your response should indicate the appropriate name, address and telephone number for further contact with you. If you are already involved in discussions with state or local authorities, engaged in a voluntary cleanup action or involved in a lawsuit regarding the Site, you should continue such activities as you see fit. This letter is not intended to advise you or direct you to restrict or discontinue any such activities already underway; however, you are advised to report the status of those discussions or actions in your response to this letter and to provide a copy of your response to any other parties involved in those discussions or actions.

In addition, the EPA is seeking to obtain certain other information from you pursuant to its authority under Section 104(e) of CERCLA, 42 U.S.C. § 9604(e), for the purpose of enforcing CERCLA and to assist in determining the need for response to a release of hazardous

substance(s) under CERCLA. The Administrator of the EPA has the authority to require any person who has or may have information relevant to any of the following to furnish the EPA with such information: (a) the identification, nature or quantity of materials which have been or are generated, treated, stored or disposed of at, or transported to, a facility; (b) the nature or extent of a release or threatened release of a hazardous substance, pollutant or contaminant at or from a facility; and (c) the ability of a person to pay for or perform a cleanup. Pursuant to Section 104(e) of CERCLA, you are hereby requested to submit the following information concerning the Site:

1. Copies of all documents relating to the handling, transportation, storage and/or disposal of asbestos or asbestos-containing materials at the Site.
2. A detailed description of the types of asbestos or asbestos-containing materials that were on the Site (including in buildings), while you performed work at the Site property.
3. Copies of any records, indicate the location of asbestos or asbestos-containing materials on the Site (including in buildings), while you performed work at the Site property.
4. For each type of asbestos or asbestos-containing materials that were on the Site (including in buildings), while you performed work at the Site property, please provide the total volume, are or length (for pipe covering etc.). Provide copies of relevant documents, such as building plans and asbestos investigation reports.
5. What arrangements were made to survey, investigate, identify, or characterize asbestos or asbestos-containing materials in preparation for, or conjunction with, your work at the Site property? Provide copies of relevant documents, such as reports, diagrams and contracts.
6. Was any asbestos or asbestos-containing material removed from any building(s) on the Site in preparation for, or conjunction with, your work at the Site property? If so, who performed such removal? Provide copies of relevant documents, such as contracts or work orders.
7. What efforts did you make to investigate, identify measure, quantify or characterize asbestos or asbestos-containing materials in buildings or parts of buildings on the Site property in preparation for, or in conjunction with, your work at the property? Who performed such activities? Provide copies of relevant documents, such as reports, diagrams and contracts.
8. Identification of any areas of the Site property in which asbestos or asbestos-containing materials existed, or were placed or disposed while, or after, you performed work at the Site property. Please include a map of the Site with the locations identified.
9. Was any asbestos or asbestos containing material removed from the Site (including in buildings) in preparation for your work at the property?

10. A list description of all liability insurance coverage that is and was carried by you or R&C Swift Dismantling, including any self-insurance provisions, that relates to hazardous substances and/or the Site, and copies of all of these insurance policies.

This request is directed to you, and R&C Swift Dismantling and any officers, directors and employees and its subsidiaries, divisions, and facilities. The information sought herein must be sent to the EPA within twenty (20) calendar days of your receipt of this letter. Failure to respond fully and truthfully to this request, or to adequately justify any failure to respond, may result in an enforcement action against you by the EPA under Section 104 of CERCLA, as amended. The information requested herein must be provided notwithstanding its possible characterization as confidential information or trade secrets. You may request however, that any such information be handled as confidential business information. A request for confidential treatment must be made when the information is provided, since any information not so identified will not be accorded this protection by the EPA. Information claimed as confidential will be handled in accordance with the provisions of Section 104(e) of CERCLA, Section 3007(b) of the Resource Conservation and Recovery Act or 40 C.F.R. Section 2.203(b).

The written statements submitted pursuant to this request must be notarized and submitted under an authorized signature certifying that all information contained therein is true and accurate to the best of the signatory's knowledge and belief. Moreover, any documents submitted to the EPA pursuant to this information request should be certified as true and authentic to the best of the signatory's knowledge and belief. Should the signatory find, at any time after the submittal of the requested information, that any portion of the submitted information is false, the signatory should so notify the EPA. If any answer certified as true should be found to be untrue, the signatory can and may be prosecuted pursuant to 18 U.S.C. § 1001. The EPA has the authority to use the information requested herein in any administrative, civil or criminal action.

Your responses to both the notice of potential liability within ten (10) calendar days and the information requests within twenty (20) calendar days should be sent to:

Mila Bensing, Enforcement Specialist  
U.S. Environmental Protection Agency, Region 5  
Superfund Division - Enforcement & Compliance Assurance Branch  
Enforcement Services Section 1, SE-5J  
77 West Jackson Boulevard  
Chicago, Illinois 60604-3590

If you need further information regarding this letter, you may contact Mila Bensing, Enforcement Services Section 1 at 312-353-2006, or at [bensing.milagros@epa.gov](mailto:bensing.milagros@epa.gov). Direct any legal questions to Andre Daugavietis, of the Office of Regional Counsel at 312-886-6663, or at [daugavietis.andre@epa.gov](mailto:daugavietis.andre@epa.gov).

Due to the nature of the problem at the Site and the attendant legal ramifications, the EPA strongly encourages you to submit a written response within the time frames specified herein.

We hope you will give this matter your immediate attention.

Sincerely,

A handwritten signature in dark ink, appearing to read "Samuel Borries". The signature is fluid and cursive, with the first name "Samuel" written in a larger, more prominent script than the last name "Borries".

Samuel Borries, Chief  
Emergency Response Branch 2

Enclosure

cc: Mr. Richard Swift  
R & C Truck Services  
585 Lindley Road  
Bronson, MI 49028

## TOCON Property Asbestos Site

### List of Potentially Responsible Parties

### Sent General Notice & Request for Information Letter

1. TOCON Holdings, LLC  
Anthony Adkins, Registered Agent  
5722 Pond Ridge Circle  
Georgetown, IN 47122
2. R & C Swift Dismantling  
c/o Mr. Richard Swift  
501 South Main Street, Apartment C  
Middlebury, Indiana 46540
3. CT Corporate Systems  
Johnson Controls, Registered Agent  
150 West market Street #800  
Indianapolis, Indiana 46204



## **U.S. EPA Small Business Resources Information Sheet**

The United States Environmental Protection Agency provides an array of resources, including workshops, training sessions, hotlines, websites and guides, to help small businesses understand and comply with federal and state environmental laws. In addition to helping small businesses understand their environmental obligations and improve compliance, these resources will also help such businesses find cost-effective ways to comply through pollution prevention techniques and innovative technologies.

### **EPA's Small Business Websites**

**Small Business Environmental Homepage** - [www.smallbiz-enviroweb.org](http://www.smallbiz-enviroweb.org)

**Small Business Gateway** - [www.epa.gov/smallbusiness](http://www.epa.gov/smallbusiness)

**EPA's Small Business Ombudsman** - [www.epa.gov/sbo](http://www.epa.gov/sbo) or 1-800-368-5888

#### **EPA's Compliance Assistance Homepage**

[www.epa.gov/compliance/assistance/  
business.html](http://www.epa.gov/compliance/assistance/business.html)

This page is a gateway to industry and statute-specific environmental resources, from extensive web-based information to hotlines and compliance assistance specialists.

#### **EPA's Compliance Assistance Centers** [www.assistancecenters.net](http://www.assistancecenters.net)

EPA's Compliance Assistance Centers provide information targeted to industries with many small businesses. They were developed in partnership with industry, universities and other federal and state agencies.

#### **Agriculture** [www.epa.gov/agriculture/](http://www.epa.gov/agriculture/)

#### **Automotive Recycling** [www.ecarcenter.org](http://www.ecarcenter.org)

#### **Automotive Service and Repair** [www.ccar-greenlink.org](http://www.ccar-greenlink.org) or 1-888-GRN-LINK

#### **Chemical Manufacturing** [www.chemalliance.org](http://www.chemalliance.org)

#### **Construction** [www.cicacenter.org](http://www.cicacenter.org) or 1-734-995-4911

#### **Education** [www.campuserc.org](http://www.campuserc.org)

#### **Food Processing** [www.fpeac.org](http://www.fpeac.org)

#### **Healthcare** [www.hercenter.org](http://www.hercenter.org)

#### **Local Government** [www.lgean.org](http://www.lgean.org)

#### **Metal Finishing** [www.nmfrc.org](http://www.nmfrc.org)

#### **Paints and Coatings** [www.paintcenter.org](http://www.paintcenter.org)

#### **Printed Wiring Board Manufacturing** [www.pwbrc.org](http://www.pwbrc.org)

#### **Printing** [www.pneac.org](http://www.pneac.org)

#### **Ports** [www.portcompliance.org](http://www.portcompliance.org)

#### **U.S. Border Compliance and Import/Export Issues** [www.bordercenter.org](http://www.bordercenter.org)

#### **Hotlines, Helplines and Clearinghouses** [www.epa.gov/epahome/hotline.htm](http://www.epa.gov/epahome/hotline.htm)

EPA sponsors many free hotlines and clearinghouses that provide convenient assistance regarding environmental requirements. Some examples are:

#### **Antimicrobial Information Hotline** [info-antimicrobial@epa.gov](mailto:info-antimicrobial@epa.gov) or 1-703-308-6411

#### **Clean Air Technology Center (CATC) Info-line** [www.epa.gov/ttn/catc](http://www.epa.gov/ttn/catc) or 1-919-541-0800

#### **Emergency Planning and Community Right-To-Know Act** [www.epa.gov/superfund/resources/ infocenter/epcra.htm](http://www.epa.gov/superfund/resources/infocenter/epcra.htm) or 1-800-424-9346

#### **EPA Imported Vehicles and Engines Public Helpline** [www.epa.gov/otaq/imports](http://www.epa.gov/otaq/imports) or 734-214-4100

#### **National Pesticide Information Center** [www.npic.orst.edu/](http://www.npic.orst.edu/) or 1-800-858-7378

#### **National Response Center Hotline** - to report oil and hazardous substance spills [www.nrc.uscg.mil](http://www.nrc.uscg.mil) or 1-800-424-8802

#### **Pollution Prevention Information Clearinghouse (PPIC)** [www.epa.gov/opptintr/ppic](http://www.epa.gov/opptintr/ppic) or 1-202-566-0799

#### **Safe Drinking Water Hotline** [www.epa.gov/safewater/hotline/index. html](http://www.epa.gov/safewater/hotline/index.html) or 1-800-426-4791

#### **Stratospheric Ozone Protection Hotline** [www.epa.gov/ozone](http://www.epa.gov/ozone) or 1-800-296-1996